

PATENT APPLICATION
CS8582
LeA 36,354

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION OF)
) ART UNIT: 1626
RALF DUNKEL ET AL)
) EXAMINER: R. H. HAVLIN
SERIAL NO.: 10/544,897)
) CONFIRMATION NO.: 5521
FILED: FEBRUARY 2, 2006)
)
TITLE: OXATHIINCARBOXAMIDES)

DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Peter Dahmen, of Altebrücker Str. 61, 41470 Neuss, Germany, a citizen of Germany, hereby declare:

1. I am a biologist having studied at the University of Bonn, Germany, where I received the degree of Dr. agr.; I entered the employ of Bayer Aktiengesellschaft, Leverkusen, Germany, in 1991, where I have been employed in the department of Biology Herbicides and after the spin-off from Bayer CropScience AG I am now employee of this company in the department of Global Biology Fungicides; and I specialize in the field of fungicide research.
2. I am familiar with the subject matter of the above-identified United States patent application.
3. The following tests have been carried out under my supervision and control.

Example 1 *Puccinia* test (wheat) / preventive

Solvent: 49 parts by weight of dimethylacetamide

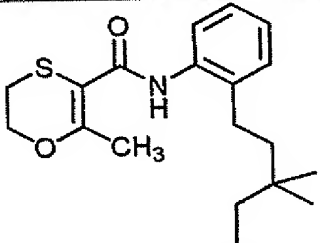
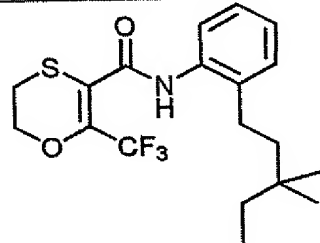
Emulsifier: 1 part by weight of alkylaryl polyglycol ether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with the stated amounts of solvent and emulsifier, and the concentrate is diluted with water to the desired concentration.

To test for preventive activity, young plants are sprayed with the preparation of active compound or active compound combination at the stated rate of application. After the spray coating has dried, the plants are sprayed with a spore suspension of *Puccinia triticina*. The plants are allowed to remain for 48 hours in an incubation cabinet at approximately 20°C and a relative atmospheric humidity of approximately 100%. The plants are then placed in a greenhouse at a temperature of approximately 20°C and a relative atmospheric humidity of approximately 80%.

The test is evaluated 8 days after the inoculation. Test results are shown in the following Table 1. 0% means an efficacy which corresponds to that of the control, whereas an efficacy of 100% means that no disease is observed.

Table 1: *Puccinia* test (wheat) / preventive

Active compound	Rate of application of active compound in ppm	Efficacy in %
Comparison compound of US 5,589,493 	1000	33
Inventive compound of S/N 10/544,897 	1000	89

Example 2 *Pyrenophora teres* test (barley) / preventive

Solvent: 49 parts by weight of dimethylacetamide

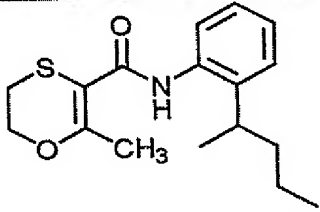
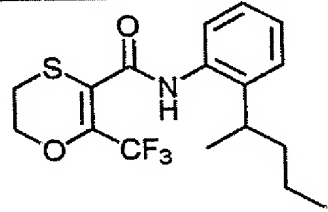
Emulsifier: 1 part by weight of alkylaryl polyglycol ether

To produce a suitable preparation of active compound, 1 part by weight of active compound or active compound combination is mixed with the stated amounts of solvent and emulsifier, and the concentrate is diluted with water to the desired concentration.

To test for preventive activity, young plants are sprayed with the preparation of active compound or active compound combination at the stated rate of application. After the spray coating has been dried, the plants are sprayed with a spore suspension of *Pyrenophora teres*. The plants are allowed to remain for 48 hours in an incubation cabinet at approximately 20°C and a relative atmospheric humidity of approximately 100%. The plants are then placed in a greenhouse at a temperature of approximately 20°C and a relative atmospheric humidity of approximately 80%.

The test is evaluated 8 days after the inoculation. Test results are shown in the following Table 2. 0% means an efficacy which corresponds to that of the control, while an efficacy of 100% means that no disease is observed.

Table 2: *Pyrenophora teres* test (barley) / preventive

Active compound	Rate of application of active compound in ppm	Efficacy in %
Comparison compound of US 5,589,493 	1000	12
Inventive compound: Example 39 of S/N 10/544,897 	1000	100

4. The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Further Declarant Sayeth Not.

Signed at Monheim, Germany, this 12. day of October, 2009.



PETER DAHMEN